

1                                   **UNITED STATES DISTRICT COURT**  
2                                   **DISTRICT OF NEVADA**

3       RICHARD IDEN,

Case No.: 3:22-cv-00111-MMD-CSD

4                   Plaintiff

**Order**

5       v.

6       AARON FORD et al.,

7                   Defendants

8  
9           Plaintiff is an inmate within the Nevada Department of Corrections (NDOC). He filed a  
10 complaint on the form for a civil rights action pursuant to 42 U.S.C. § 1983. (ECF No. 1-1.) The  
11 Local Rules of Practice for the District of Nevada provide: “Any person who is unable to prepay  
12 the fees in a civil case may apply to the court for authority to proceed *in forma pauperis* (IFP).  
13 The application must be made on the form provided by the court and must include a financial  
14 affidavit disclosing the applicant’s income, assets, and liabilities.” LSR 1-1. When a prisoner  
15 seeks to proceed without prepaying the filing fee, in addition to filing the affidavit, the prisoner  
16 is required to submit a certified copy of the trust fund account statement (or institutional  
17 equivalent) for the six-month period immediately preceding the filing of the complaint. The  
18 statement must be obtained from the appropriate official at the prison or detention facility where  
19 the prisoner is or was confined. 28 U.S.C. § 1915(a)(2).

20           When a prisoner brings a civil action IFP, the prisoner is still required to pay the full  
21 amount of the filing fee. The court is required to assess, and when funds exist, collect an initial  
22 partial payment of 20 percent of the greater of: (A) the average monthly deposits in the  
23 prisoner’s account or (B) the average monthly balance in the prisoner’s account for the six-  
month period immediately preceding the filing of the complaint. Thereafter, whenever the

1 prisoner's account exceeds \$10, the prisoner must make monthly payments of 20 percent of the  
2 preceding month's income credited to the prisoners account until the filing fees are paid. The  
3 funds are to be forwarded by the agency having custody of the prisoner. 28 U.S.C. § 1915(b)(1),  
4 (2).

5 The regular filing fee is \$402, consisting of the \$350 filing fee and a \$52 administrative  
6 fee. If an inmate does not qualify for IFP status, he must pay the full \$402 filing fee. If the  
7 inmate qualifies for IFP status, the \$52 administrative fee is waived, and the inmate will only pay  
8 the \$350 filing fee over time.

9 Plaintiff's complaint was not accompanied by an IFP application for an inmate and the  
10 required financial certificate or the \$402 filing fee.

11 The Clerk shall **SEND** Plaintiff a copy of the instructions and application to proceed IFP  
12 for an inmate. Plaintiff has **30 days** from the date of this Order to either file his completed IFP  
13 application and financial certificate or pay the full \$402 filing fee.

14 Once Plaintiff has filed his completed IFP application and financial certificate or paid the  
15 filing fee, the court will screen the complaint pursuant to 28 U.S.C. § 1915(e)(2)(B) or 28 U.S.C.  
16 § 1915A, or both. Both require dismissal of a complaint, or any portion thereof, that is frivolous  
17 or malicious, fails to state a claim upon which relief may be granted, or seeks monetary relief  
18 against a defendant who is immune from such relief. If the complaint is dismissed on screening,  
19 there will be no refund of the filing fee, and an inmate proceeding IFP is still required to pay the  
20 \$350 filing fee over time.

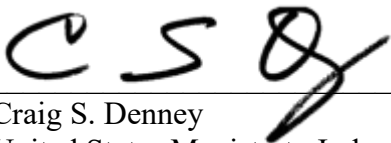
21 The court has undertaken a preliminary review of Plaintiff's complaint. He asserts a  
22 claim for breach of contract related to the alleged breach of a settlement agreement entered into  
23 in connection with another civil rights case pending in this court. It appears the court would not

1 have jurisdiction over a state law claim for breach of contract because there is no federal  
2 question, and there is no diversity of citizenship between the parties. Therefore, Plaintiff may  
3 also submit a notice to voluntarily dismiss this action. Plaintiff is reminded that if he elects to  
4 proceed with this action by paying the filing fee or submitting the required IFP application, there  
5 will be no refund of the fee if the case is dismissed.

6 If Plaintiff fails to timely file a completed IFP application and financial certificate or pay  
7 the filing fee, this court will recommend dismissal of this action without prejudice.

8 **IT IS SO ORDERED.**

9 Dated: March 21, 2022.

10   
11 Craig S. Denney  
United States Magistrate Judge